

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN**

EDWARD HURTWITZ,

Plaintiff,

Case #.

vs.

Judge:

CREDIT PROTECTION ASSOCIATION,

Defendants.

NOTICE OF REMOVAL

**TO: THE JUDGES OF THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF MICHIGAN**

NOW COMES Defendant, CREDIT PROTECTION ASSOCIATION, LP ("CPA"), by its undersigned attorneys, and for its Notice of Removal, pursuant to 28 U.S.C. §1441(a) and 1446, respectfully shows as follows:

1. On or about the 3rd day of October, 2013, an action was commenced against CPA in the Small Claims Civil Division for the 52nd District Court, Division 4 of the State of Michigan, entitled *Edward Hurtwitz v. Credit Protection Association*, Case No. 13-C-00243-SC by filing an Affidavit and Claim with the Clerk of Court for that court, a copy of which is annexed hereto as Exhibit A, at p. 2.

2. The aforesaid Affidavit and Claim were served via certified mail and received by CPA on September 23, 2013. See proof of service faxed by Court to defense counsel, a copy of which is annexed hereto as Exhibit B.

3. On or about the 2nd day of October, 2013, Plaintiff filed a Demand with the Small Claims Civil Division for the 52nd District Court, Division 4 of the State of Michigan to remove the subject action from Small Claims to the General Civil Division of that court. Ex. A at p. 1. The subject action was then assigned the following case number: 13-C-002243-SC. Based on 52nd

District Court, Division 4 Court clerk's representations, no further proceedings have been had therein.

4. Based upon the allegations in the Affidavit and Claim, the above-captioned action is a civil suit of which this Court has original jurisdiction under 28 U.S.C. §1331.

5. Plaintiff's Affidavit and Claim alleges several causes of action against CPA, including claims under the Federal Fair Debt Collection Practices Act ("FDCPA"), 15 U.S.C. § 1692 et seq., the Federal Fair Credit Reporting Act ("FCRA"), 15 U.S.C. §1681 et seq., and the Telephone Consumer Protection Act ("TCPA"), 47 U.S.C. § 227, et seq. According to the Affidavit and Claim, Plaintiff was allegedly subject to unlawful collection efforts regarding two accounts belonging to Plaintiff. Plaintiff further alleges in the Affidavit and Claim that he was subjected to calls made to his cellular phone as part of the collection efforts. All of Plaintiff's claims stem from those factual allegations.

6. The FDCPA is a federal act, which, in general, provides that a consumer can file a civil action when alleged unlawful debt collection practices have been used against him by a collector of debt.

7. The FCRA is a federal act, which, in general, regulates the collection, dissemination, and use of consumer information, including consumer credit information.

8. The TCPA is a federal act, which, in general, prohibits non-emergency calls to cellular phones made through the use of an automatic telephone dialing system to which the intended recipient did not consent.

9. Pursuant to 28 U.S.C. § 1331, the District Court has original jurisdiction over this matter as Plaintiff's claims under the FDCPA, FCRA and TCPA arise under the laws of the United States. Additionally, this Court also has supplemental jurisdiction over all other related claims, pursuant to 28 U.S.C. § 1367(a).

10. Removal of this action to this Court is permissible under the provisions of 28 U.S.C. § 1441 in that it is a civil action founded on a claim or right arising under the laws of the United States.

11. Removal is timely under 28 U.S.C. §1446(b) as thirty (30) days have not elapsed since CPA first received a copy of the Affidavit and Claim.

12. In accordance with 28 U.S.C. § 1446(d), written notice of the filing of this removal notice will be given to Plaintiff and will be filed with the General Civil Division for the 52nd District Court, Division 4 of the State of Michigan, following the filing of this notice.

13. In submitting this Notice of Removal, CPA reserves all defenses, including lack of personal jurisdiction.

WHEREFORE, Defendant, CREDIT PROTECTION ASSOCIATION, LP, requests that the above action now pending against it in the General Civil Division for the 52nd District Court, Division 4 of the State of Michigan, be removed to the United States District Court for the Eastern District of Michigan.

Dated: October 17, 2013

Respectfully submitted,

HINSHAW & CULBERTSON LLP

By: /s/ Avanti D. Bakane

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CERTIFICATE OF SERVICE

I hereby certify that on October 17, 2013, I electronically filed the with the Clerk of the U.S. District Court, Eastern District of Michigan, the foregoing **Notice of Removal** by using the CM/ECF system, which will send notification of such filing(s) to all attorneys of record and via U.S. Mail, First Class to all non-attorneys:

Edward Hurtwitz
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/s/ *Avanti D. Bakane*